

**MINUTES OF THE
HEALTH REFORM TASK FORCE**

Thursday, December 18, 2014 – 9:00 a.m. – Room 210 Senate Building

Members Present:

Sen. Allen Christensen, Senate Chair
Rep. James A. Dunnigan, House Chair
Sen. J. Stuart Adams
Sen. Gene Davis
Sen. Peter C. Knudson
Rep. Rebecca Chavez-Houck
Rep. Rebecca P. Edwards
Rep. Francis D. Gibson

Rep. Michael S. Kennedy
Rep. Marie H. Poulson
Rep. Dean Sanpei

Staff Present:

Mr. Mark Andrews, Policy Analyst
Ms. Cathy Dupont, Associate General Counsel
Ms. Debra Hale, Legislative Secretary

Note: A list of others present, a copy of related materials, and an audio recording of the meeting can be found at www.le.utah.gov.

1. Committee Business

Chair Christensen called the meeting to order at 9:25 a.m.

MOTION: Rep. Gibson moved to approve the minutes of the December 4, 2014, meeting. The motion passed unanimously. Sen. Adams, Sen. Davis, Rep. Dunnigan, and Rep. Edwards were absent for the vote.

2. Medicaid Accountable Care Organizations (ACOs)

Mr. David C. Gessel, Executive Vice President, Utah Hospital Association, said that three or four years ago the Legislature decided to privatize the Medicaid program, and that as a result the majority of patients and money in Medicaid are now associated with four risk-based ACOs.

Mr. Daniel R. Liljenquist, President and Founder, Liljenquist Strategies, reviewed three commitments the Legislature made with 2011 S.B. 180 (see handout "The Need to Sustain Utah's 2011 Medicaid Reform Today"):

- 1) to allow Medicaid ACOs flexibility to experiment with different payment methodologies and incentive structures to align physicians and other health care partners in the delivery of appropriate healthcare;
- 2) to fund modest annual inflationary adjustments for the ACOs; and
- 3) in good years, when costs are down, to place funds in a restricted account that will serve as a rainy day fund.

Mr. Liljenquist said that ACOs are working, costs are down, cost trends are good, and service and quality scores are better under the ACOs than under Medicaid's fee-for-service delivery system.

Rep. Sanpei said that when ACOs were initially adopted, they were limited to the Wasatch Front. He asked what the Legislature can do to extend ACOs to rural areas.

Mr. Liljenquist replied that rural counties are interested in ACOs, and the Department of Health is considering extending them to rural areas.

Mr. Chad Westover, President, Molina Healthcare of Utah, noted that Molina is proud to have been a partner with the state for 16 years in Medicaid and the Children's Health Insurance Program (CHIP) and

said that he is happy to say the partnership is working. Because of S.B. 180 and the risk-based operations it permits, he said, Molina is able to efficiently manage patient care and do things the state cannot do. He said that \$17.1 million in savings was deposited into the Medicaid restricted account in fiscal year 2014. He reported that a survey of Molina Medicaid enrollees shows an 80% approval rating for Medicaid.

Mr. Westover noted that Molina has had discussions with many parties who have expressed strong interest in providing care to rural counties through ACOs. He said this would require \$3 million in one-time funding and was not sure whether the funding was included in the governor's budget.

Ms. Michelle S. McOmber, Executive Vice President and CEO, Utah Medical Association, said that her association supports including a 2% increase in funding for ACOs in the Legislature's base budget. She indicated that her association thinks accountable care organizations are working.

3. Extending the Availability of Health Insurance

Rep. Dunnigan presented "Addressing the Coverage Gap" (slides and handout), which summarized 15-year changes in Medicaid spending, enrollment, and costs; identified changes in Medicaid enrollment and spending due to the federal Affordable Care Act's (ACA) mandatory eligibility expansion; illustrated the health insurance "coverage gap"; included selected 2014 federal poverty guidelines and taxes imposed by the ACA; and identified the federal match rate for Medicaid eligibility expansion under the ACA. Rep. Dunnigan noted that a substantial amount in taxes is being collected from the state under the ACA.

Ms. Dupont discussed the definition of "medically vulnerable," as it relates to expansion of Medicaid eligibility. She explained that under Governor Gary R. Herbert's proposed Healthy Utah plan, the medically vulnerable are considered by federal law to be medically exempt. She explained options for extending coverage to the medically vulnerable.

Rep. Dunnigan reviewed three options for extending insurance coverage to adults not currently eligible for Medicaid:

- a) **Option 1:** cover those under the poverty level meeting the minimum definition of medically vulnerable;
- b) **Option 2:** cover those under the poverty level meeting a broader definition of medically vulnerable; and
- c) **Option 3 (Healthy Utah):** expand Medicaid coverage up to 138% of the federal poverty level.

Rep. Dunnigan presented state costs and enrollment for each option for fiscal year 2016 and fiscal year 2021, and discussed other aspects of the options.

Chair Christensen stated that he has prepared draft legislation that would encompass Option 1 and possibly Option 2. He indicated that his premise is that a large charity-care network currently exists and that it can handle the majority of the uninsured within the state. However, he said, there are certain groups with needs beyond the capabilities of the network who need specialized care, and that care is addressed by his draft legislation through premium subsidies and Medicaid.

Rep. Chavez-Houck distributed and discussed a copy of a two-part motion passed last year by the task force:

- I. The Health Reform Task Force should continue to study Medicaid expansion options of mandatory expansion only, expansion to 100% of the federal poverty level, or the expansion combined with Medicaid wrap-around coverage for the enrollees who receive premium subsidies; and
- II. If the state expands Medicaid to any part of the optional population, the expansion model should include the following four principles:
 - a. A Medicaid benchmark plan for a the newly eligible population that integrates behavioral health services with physical health services;
 - b. Stabilize the commercial insurance market and minimize the crowd-out effect;
 - c. A negotiated, fixed federal Medicaid contribution that creates incentives for cost savings; and
 - d. A sunset on the expansion program that includes an automatic repeal after three years, unless reauthorized.

The task force discussed how the three options and Chair Christensen's charity care proposal address the principles in the motion above from last year.

Sen. Christensen stated that the principles of the motion passed last year were adopted as guidelines.

Rep. Sanpei said that cost estimates and analyses keep changing, information is evolving, and many favor an incremental and measured approach to solving the coverage gap. He said that he favors Options 1 and 2. He indicated that counties support implementation of an integrated medical/behavioral healthcare pilot program in Salt Lake County if Option 3 is adopted. Whether an integrated model could be implemented under Options 1 or 2 would have to be explored, he concluded.

Rep. Dunnigan said that there would be no enrollment cap for Options 1 and 2. He explained how the principles outlined in last year's motion are addressed by Options 1 through 3 and discussed use of a definition of "medically vulnerable."

Sen. Adams shared with the task force the per-enrollee costs he calculated for each option. He said that he is concerned about funding and balancing the state budget. Whichever option is chosen, he said, there must be a commitment to fully fund ongoing costs.

Rep. Edwards expressed her concern about the state making any commitment it would be unable to fund in the long term and asked how benefits would be pulled back under Options 1 and 2.

Chair Christensen agreed that there is often a painful necessity to pull back services. He said that Option 1 would be less difficult to pull back from than Option 2, and Option 2 would be less difficult to pull back from than Option 3. He said that the task force is working to address the problems of the truly vulnerable, and that a coverage gap is unavoidable because a line has to be drawn somewhere.

Rep. Dunnigan said that if there are funding reductions, they are more likely to be made to the expansion population than to the traditional Medicaid population. He emphasized that once the state covers people above 100% of the federal poverty level, it will be extremely difficult to pull that coverage back. He stressed the need to legislate a program that is sustainable. He also said that there is no repeal trigger for Options 1 and 2.

Sen. Shiozawa agreed that it is painful when Medicaid benefits are taken away from patients, but said that it is also painful to never have had the benefits.

Rep. Spendlove indicated that one of the struggles policymakers face as they decide whether to expand Medicaid eligibility is that cost estimates for expansion have fluctuated widely over the past several years,

and that it is still unknowable what will be done over the next few years at the federal level to change the ACA. He said that he agrees it is not fair to provide coverage and then withdraw it sometime in the future. He indicated he likes Options 1 and 2 and that it should be decided what amount of funding the state can afford to help people in the coverage gap.

Rep. Poulson expressed her optimism that Utahns will not enroll in Medicaid and remain on the program indefinitely. She agreed that Utah is known as fiscally responsible and said that it must come up with a plan to use federal tax dollars to cover the most people at the lowest cost.

MOTION: Rep. Dunnigan moved that Options 1 and 2 be adopted as task force recommendations.

SUBSTITUTE MOTION: Rep. Edwards moved that Options 1, 2, and 3 be adopted as task force recommendations.

Sen. Shiozawa requested the task force to continue consideration of Option 3 in order to give all of the Legislature an opportunity to weigh in on this important matter.

Rep. Poulson said that in fairness to stakeholders, she favors keeping Option 3 on the table.

Rep. Dunnigan said that the three options do not have the full approval of the Obama administration, that waivers will have to be worked out with the federal government, and that discussions with the federal government are positive.

Rep. Chavez-Houck said that positive, clear, and candid conversations have been conducted over the last six months between the federal government and the governor's representatives from the Department of Health and that by keeping Option 3 on the table these negotiations will not have been extended in vain. She indicated that discussions to arrive at consensus estimates for Healthy Utah costs can move forward, and that she is pained by the idea that Options 1 and 2 would exclude people within the coverage gap.

Rep. Gibson, looking at the ongoing \$78,000,000 cost of Option 3, spoke in opposition to the substitute motion.

Rep. Edwards said that she has been involved in the intense negotiations of Option 3, and asked that the task force not prematurely limit options and discussion. She stressed the significant amount of work done to narrow the possibilities to the three options considered to be the most viable. She said that Option 3 is not a full Medicaid expansion. She said supporting the substitute motion is just a vote to continue discussion of Option 3, not a vote of agreement with the option.

Sen. Davis spoke in favor of the substitute motion and said that to not consider Option 3 is a total disregard for the human condition.

VOTING ON THE SUBSTITUTE MOTION: The substitute motion failed, with Sen. Davis, Rep. Chavez-Houck, Rep. Edwards, and Rep. Poulson voting in favor, and Sen. Adams, Chair Christensen, Sen. Knudson, Rep. Dunnigan, Rep. Gibson, Rep. Kennedy, and Rep. Sanpei voting in opposition.

VOTING ON THE ORIGINAL MOTION: The original motion passed, with Sen. Adams, Chair Christensen, Sen. Knudson, Rep. Dunnigan, Rep. Edwards, Rep. Gibson, Rep. Kennedy, and Rep. Sanpei voting in favor, and Sen. Davis, Rep. Chavez-Houck, and Rep. Poulson voting in opposition.

Sen. Davis requested that Ms. Dupont open a bill file for full Medicaid expansion.

4. Other Items/Adjourn

MOTION: Sen. Knudson moved to adjourn the meeting. The motion passed unanimously.

Chair Christensen adjourned the meeting at 11:03 a.m.